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REMARKS

The Office Action mailed April 3, 2006 has been carefully reviewed and, in view of the above amendments and following remarks, reconsideration and allowance of the application are respectfully requested.

I. Claim Summary

Claims 1-2, 4-20, 22-33, and 43-51 are currently pending in the application, with claims 1, 18, 28, and 43 being independent claims. Claims 3, 21, and 57-62 are cancelled, in accordance with the above amendments.

II. Office Action Summary

The following claim rejections were submitted by the Examiner in the outstanding Office Action:

- Claims 1-12, 17-25, 28-31, 43-47, and 57-62 are rejected under 35 U.S.C. §103(a) as being unpatentable over a combination of U.S. Patent Number 6,131,202 to Yan and U.S. Patent Number 5,497,513 to Arabeyre, et. al.; and
- Claims 13-16, 26-27, 32-33, and 48-51 are rejected under 35 U.S.C. §103(a) as being unpatentable over a combination of Yan, Arabeyre, and U.S. Patent Application Publication 2003/0226193 to Wang.

III. Discussion of Claims 1-2 and 4-17

Independent claim 1 recites an article of headwear having an adjustment system for accommodating various head dimensions. The headwear includes a crown for covering at least a portion of a head. The crown is at least partially formed of a first elastic material. In addition, the crown includes a strip of a second elastic material that is secured onto a surface of the crown. The strip defines a plurality of apertures extending through the strip to expose portions of the first elastic material.

The Office Action rejects independent claim 1 as being obvious over a combination of Yan and Arabeyre.

Yan discloses a headwear configuration having "a head liner or sweatband 24...consisting of a thin foam comfortable material 26 which has overlaying it a fabric covering

28 preferably of the same color and material as that comprising the gores" (Yan, column 3, lines 17-21). As seen in the cross-section of Figure 5, the sweatband (element 24) has a polymer foam element (element 26) and a fabric layer (element 28) that covers or otherwise extends around the exterior of the foam element. Furthermore, Yan states that the "foam liner is...sewn within the fabric making up the cap and is sewn with the same type of thread as the remainder of the cap" (Yan, column 4, lines 32-34). According to Yan, the foam element is formed from "a foam polymer having an open air cell porosity" (Yan, column 4, line 28).

Arabeyre discloses a remedial support appliance for medical use. The appliance includes a main portion formed from an elastic knit element that covers a leg or arm. An end area of the appliance includes an elasticized braid that is secured to the main portion through stitching, and the elasticized braid "is covered by a pattern 23 made of antislip material, said pattern being preferably made of silicone or the like, and being continuously deposited on the inside periphery of the elasticized garter band 20" (Arabeyre, column 5, lines 1-4).

Independent claim 1 recites that the strip defines a plurality of apertures extending through the strip to expose portions of the first elastic material. Neither Yan nor Arabeyre teach or suggest this configuration. As noted in the Office Action and discussed above, the foam of Yan has an open air cell porosity. The mere fact that a material is porous does not, however, indicate that the material defines apertures that expose an underlying material. Moreover, Yan is being combined with Arabeyre, which specifically states that "pattern 23... [is] *continuously* deposited on the inside periphery of the elasticized garter band 20" (Arabeyre, column 5, lines 1-4, *emphasis added*). Even if Yan is considered to teach apertures due to porosity, the combination with Arabeyre (wherein the foam is replaced with the material of Arabeyre) provides for a continuous (i.e., uninterrupted) material.

Based upon the above discussion, the Applicants respectfully submit that independent claim 1 is allowable over the combination of Yan and Arabeyre. In addition, claims 2 and 4-17 should also be allowable for at least the same reasons and because Wang does not remedy the deficiencies discussed above.

IV. Discussion of Claims 18-20 and 22-27

Independent claim 18 recites a cap with a crown having a strip that defines a plurality of apertures extending through the strip to expose portions of an elastic material. The Office Action rejects independent claim 18 as being obvious over a combination of Yan and Arabeyre. Accordingly, independent claim 18 should be allowable for at least the same reasons that are discussed above for independent claim 1. More particularly, even if Yan is considered to teach apertures due to porosity, the combination with Arabeyre provides for a continuous (i.e., uninterrupted) material.

Based upon the above discussion, the Applicants respectfully submit that independent claim 18 is allowable over the combination of Yan and Arabeyre. In addition, claims 19-20 and 22-27 should also be allowable for at least the same reasons and because Wang does not remedy the deficiencies discussed above.

V. Discussion of Claims 28-33

Independent claim 28 recites a cap having an adjustment system for accommodating various head dimensions. The cap includes a crown and a visor attached to the crown. The crown is for covering at least a portion of a head and is at least partially formed of an elastic textile. The crown includes a flap positioned adjacent an interior surface of the crown. The flap defines a first surface and an opposite second surface, with the first surface being oriented to face away from the head and the second surface being oriented to face the head. The crown also includes a strip of elastic silicone that is bonded onto the first surface, the strip including a plurality of perforations that form apertures extending entirely through the strip. The perforations are aligned to form parallel rows of the perforations. The visor has a configuration that expands in response to a stretching of the crown.

The Office Action rejects independent claim 28 as being obvious over a combination of Yan and Arabeyre. As a first matter, and as discussed with respect to independent claim 1, even if Yan is considered to teach perforations (i.e., apertures) due to porosity, the combination with Arabeyre provides for a continuous (i.e., uninterrupted) material. Secondly, independent claim 28 recites that the perforations are aligned to form parallel rows of the perforations, as depicted in Figure 6B of the present application. Neither Yan nor Arabeyre teach or suggest this configuration.

Based upon the above discussion, the Applicants respectfully submit that independent claim 28 is allowable over the combination of Yan and Arabeyre. In addition, claims 29-33 should also be allowable for at least the same reasons and because Wang does not remedy the deficiencies discussed above.

VI. Discussion of Claims 43-51

Independent claim 43 recites a cap having an adjustment system for accommodating various head dimensions. The cap includes a crown and a visor attached to the crown. The crown includes a plurality of panels formed from a first elastic material. The panels are attached together to form a generally hemispherical structure for extending over a head, at least one of the panels has a primary section and an extension. The primary section forms at least a portion of an exterior of the crown. The extension is attached to an edge of the primary section and is folded relative to the primary section and located adjacent to the primary section. The extension has a first surface oriented to face the primary section and an opposite second surface oriented to face the head. The crown also includes a strip of a second elastic material that is attached to the first surface, and the crown includes a sweatband attached to the second surface. The visor has a configuration that expands in response to a stretching of the crown.

The Office Action rejects independent claim 43 as being obvious over a combination of Yan and Arabeyre. Independent claim 43 recites that (a) the extension has a first surface oriented to face the primary section, (b) the extension has an opposite second surface oriented to face the head, and (c) the crown includes a strip of a second elastic material that is attached to the first surface. Based upon these limitations, the strip is secured to a surface that faces the primary section (i.e., away from the head).

Yan discloses that the foam is separated from the head of a wearer by the fabric layer that wraps around the foam. In Arabeyre, however, the silicone material is placed on a surface of the appliance that is in contact with the skin of an individual to provide an antislip function. Whereas the foam of Yan is separated from the head, the silicone of Arabeyre is specifically in contact with the individual. A review of Arabeyre reveals only one purpose for the silicone: an antislip material. If one were to modify Yan to replace the foam with the silicone material of Yan, the silicone material of Yan would not serve any discernable purpose. That is, the silicone material would not be in contact with the individual to provide an antislip function.

Accordingly, the only logical manner in which Yan and Arabeyre may be combined is to place the silicone on a surface that faces the head (thereby providing an antislip function). This configuration, however, is contrary to the recitation of independent claim 43, wherein the strip is secured to a surface that faces away from the head. Even if Yan and Arabeyre are combined, therefore, the limitations of independent claim 43 are not met.

Based upon the above discussion, the Applicants respectfully submit that independent claim 43 is allowable over the combination of Yan and Arabeyre. In addition, claims 44-51 should also be allowable for at least the same reasons and because Wang does not remedy the deficiencies discussed above.

VII. Conclusion

In view of the foregoing, the Applicant respectfully submits that all claims are in a condition for allowance. The Applicant respectfully requests, therefore, that the rejections be withdrawn and that this application now be allowed.

This Amendment is being timely filed by facsimile transmission on July 10, 2006. Should additional fees or an extension of time be deemed necessary for consideration of this Amendment, such fees or extension are hereby requested and the Commissioner is authorized to charge deposit account number 19-0733 for payment. If anything further is desirable to place the application in even better form for allowance, the Examiner is respectfully requested to telephone the undersigned representative at (503) 425-6800.

Respectfully submitted,

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